HIGH COURT OF UTTARANCHAL AT NAINTIAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII rule 32 (2)(b)

Description of the case

No.W.P. No. 923 year 2003

Rajeev Pratap Singh Versus Principal H.N.B. P.G. College

Approved for reporting

~~Not approved~~

Dated of decision 24.9.2003

Initial of Judge

HIGH COUT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 923 of 2003

Rajeev Pratap singh s/o S.K. Singh
R/o Majula, District Pilibhit ….. Petitioner

Versus

1. Principal H.N.B. Govt. P.G. College, Khatima, District Udham Singh Nagar
2. Registrar, Kumaon University, Nainital

…Respondents

Sri Rakesh Thapliyal, Advocate for the Petitioner
Sri B.D. Upadhyay, Advocate for the respondents

Dated: September 24, 2003

Hon'ble Rajesh Tandon J.

The present writ petition has been filed for the issue of a writ in the nature of mandamus directing the respondents to admit the petitioner provisionally in M.A. 2nd year.

Brief facts giving rise to the present writ petition are that the petitioner has appeared in M.A. 1st year in 2002 as private student. He has secured 145 marks out of 400 which comes to 36.5% After passing M.A. 1st year the petitioner has sought admission in M.A. 2nd year. His admission was not accepted by the Admission committee on 28.7.2003.

Order dated 28.7.2003 has been passed on the representation of the petitioner that if the petitioner has filed to obtain 40% marks in the improvement examination, he will not be entitled for admission.

However, he was prayed that provisional admission in M.A. 2nd year may be provided to him subject to the condition of obtaining 40% marks in improvement examination.

The grievance of the petitioner is that the prayer of the petition in the representation has not been considered and straight away the same has been rejected on the ground that the petition is not qualified for admission in M.A. 2nd year as he has not obtained 40% marks.

Heard the learned counsel for the parties.

Regulation 2-4 of the College are important which provide condition for admission in M.A. 2nd year. Similarly regulation 2-9 provides improvement examination and during the course of improvement examination right has been given to the petitioner for admission provisionally. Regulation 2-4 and n2-9 are quoted below:

2-4 ऐसे विद्यार्थी जिन्होने स्नातक प्रथम/द्वितीय वर्ष की परीक्षा प्रयोगात्मक वषियों को छोड़कर वक्तिगत परीक्षार्थी के रूप में उर्त्तीण की हो तथा ऐसे अभ्यर्थी के स्नातक प्रथम वर्ष/द्वितीय वर्ष की परीक्षा में 50ः अंक होने पर सम्बधित कक्षा में स्थान रिक्त होने की दषा में द्वितीय/तृतीय वर्ष में में प्रवेष दिया जा सकता है इसी प्रकार की व्यवस्था स्नातकोत्तर कक्षाओं में द्वितीय वर्ष के प्रवेष के लिए भी लागू होगी।

2.9 परीक्षाफल सुधार परीक्षा हेतु अर्ह होने वाले अभ्यार्थीयों को यह सुविधा रहेगी कि प्रवेष नियमों के अन्तर्गत तथा निर्धारित तिथि के भीतर स्नातक स्तर में द्वितीय एवं तृतीय वर्ष तथा स्नातकोत्त्र स्तर पर द्वितीय वर्ष में अनन्तिम प्रवेष लिखित घोषणा पत्र के आधार पर दिया जा सकेगा।

It was brought to the notice of the Court that certain amendment has been made by which 40% has been mentioned as eligibility criteria for M.A. 2nd year which is quoted as under:

विश्वविद्यालय के पत्रांक मान्यता/प्रवेष 2003/490 दिनांक 21 जुलाई 2003 द्वारा प्रवेश नियम 2.4 में 50 प्रतिषत अंकों की बाध्यता को षिथिल कर 40 प्रतिषत कर दिया गया है।

Sri B.D. Upadhyay appearing on behalf of respondent No.1 and 2 has stated that since the petitioner has failed to obtain 40% marks in M.A. 1st year, therefore, the respondents are not bound to admit him in M.A. 2nd year as regular student.

Suffice it to state that the improvement is a part of human tendency and the same may be dealt with considering the career building of the students.

However, both the parties have agreed that in case the petitioner files a fresh representation, in the light of the aforesaid provisions the same shall be disposed of sympathetically and also by assigning reasons. The petitioner, therefore, is permitted to make representation in accordance with the University regulations and the same shall be disposed of by respondent no. 2 within two weeks from the date of production of certified copy of the order.

With these observations the writ petition is disposed of.

(Rajesh Tandon, J.)

Dated: 24.9.2003
*Dhayni